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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91212004
Party	Plaintiff PRL USA Holdings, Inc.
Correspondence Address	DANIEL I SCHLOSS GREENBERG TRAURIG LLP 200 PARK AVENUE, 34TH FLOOR NEW YORK, NY 10166 UNITED STATES schlossd@gtlaw.com
Submission	Motion for Summary Judgment
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Date	12/09/2014
Attachments	GBR POLO Motion for Summary Judgment and Exhibits A-D.pdf(1586956 bytes )

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

**In re:** U.S. Application Serial No. 85/755,945

**Mark:** GBR POLO

**Published:** April 16, 2013

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PRL USA HOLDINGS, INC.,

Opposition No. 91212004

Opposer,

-against-

XINGTANG REN,

Applicant.

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**OPPOSER'S MOTION FOR SUMMARY JUDGMENT**

Pursuant to Rule 56(a) of the Federal Rules of Civil Procedure, and Rule 2.127(e) of the Trademark Rules of Practice, Opposer hereby moves for summary judgment on the basis that the application herein opposed was void *ab initio* for lack of *bona fide* intent to use Applicant's mark, GBR POLO, Serial No. 85/755,945 ("Applicant's Mark"). Through his discovery responses, Applicant Xingtang Ren ("Applicant") has amply demonstrated that he had no *bona fide* intent to use the mark that is the subject of this Opposition. He has also outright admitted that he has no evidence of any kind to support a *bona fide* intent to use the mark. Opposer therefore respectfully submits that the Board should grant this Motion for Summary Judgment.

**STANDARD FOR SUMMARY JUDGMENT**

Summary judgment is appropriate where there are no genuine disputes as to any material facts, thus allowing the case to be resolved as a matter of law. Fed. R. Civ. P. 56(a). The party seeking summary judgment bears the burden of demonstrating the absence of any genuine

dispute of material fact, and that it is entitled to a judgment under the applicable law. *See Celotex Corp. v. Catrett*, 477 U.S. 317, 323 (1986); *Sweats Fashions, Inc. v. Pannill Knitting Co. Inc.*, 833 F.2d 1560, 4 U.S.P.Q.2d 1793, 1796 (Fed. Cir. 1987). A factual dispute is genuine if, on the evidence of record, a reasonable fact finder could resolve the matter in favor of the non-moving party. *See Opryland USA Inc. v. Great Am. Music Show Inc.*, 970 F.2d 847, 23 U.S.P.Q.2d 1471, 1472 (Fed. Cir. 1992); *Olde Tyme Foods, Inc. v. Roundy's, Inc.*, 961 F.2d 200, 22 U.S.P.Q.2d 1542, 1544 (Fed. Cir. 1992). When appropriate, however, the Board does not hesitate to dispose of cases on summary judgment. *Milliken & Co. v. Image Indus., Inc.*, 39 U.S.P.Q.2d 1192, 1196 (T.T.A.B. 1996). As shown below, summary judgment is appropriate in this proceeding, as Applicant has conceded the facts necessary to find in favor of Opposer in its claim for lack of *bona fide* intent to use, and no reasonable fact finder could decide this factual issue in Applicant's favor.

#### **LACK OF BONA FIDE INTENT TO USE**

A determination of whether an applicant has a *bona fide* intention to use the mark in commerce is an objective determination based on all of the circumstances. *See Boston Red Sox Baseball Club LP v. Sherman*, 88 U.S.P.Q.2d 1581 (T.T.A.B. 2008); *see also Lane Ltd. v. Jackson Int'l Trading Co.*, 33 U.S.P.Q.2d 1351, 1355 (T.T.A.B. 1994). The Board has held, however, that the absence of any documentary evidence on the part of an applicant regarding such intent constitutes objective proof sufficient to prove that the applicant lacks a *bona fide* intention to use its mark in commerce. *See Boston Red Sox*, 88 U.S.P.Q.2d 1581; *see also Commodore Electronics Ltd. v. CBM Kabushiki Kaisha*, 26 U.S.P.Q.2d 1503, 1507 (T.T.A.B. 1993). The Board has further stated that an applicant's "mere statement of subjective intent" alone will never be sufficient to establish a *bona fide* intent to use the mark in commerce. *Lane*

*Ltd.*, 33 U.S.P.Q.2d at 1356.

### **FACTUAL BACKGROUND**

On or about October 17, 2012, Applicant filed Application Serial No. 85/755,945 (the “Application”) with the United States Patent and Trademark Office to register the Applicant’s Mark for use on or in connection with “Baby layettes for clothing; Belts; Clothing for babies, toddlers and children, treated with fire and heat retardants, namely, pajamas, jackets, shirts, pants, jumpers; Gloves; Hats; Hosiery; Jackets; Scarfs; Shirts; Shoes; Shorts; Suits; Swim suits; T-shirts; Under garments; Waist belts; Wedding dresses” in International Class 25 (“Applicant’s Goods”). The Application is based solely on Applicant’s purported *bona fide* intent to use the mark.

On August 13, 2013, Opposer filed a Notice of Opposition against the Application on the grounds of likelihood of confusion, dilution, and lack of *bona fide* intent to use the mark. During the course of discovery, Applicant has repeatedly made clear in his responses that he has undertaken no business planning or other business activities whatsoever with respect to Applicant’s Mark. Additionally, despite document requests properly put forth by Opposer, Applicant has produced no documents whatsoever evidencing any intention to use Applicant’s Mark in connection with Applicant’s Goods. In fact, Applicant has explicitly admitted that he has no such documents, or any evidence of any kind. Not only does Applicant admit that he lacks any evidence of his intent to use Applicant’s Mark in commerce, but Applicant has also repeatedly admitted that he has neither taken any action nor made any plans to use the mark in commerce. In fact, in response to Opposer’s discovery requests related to intent, Applicant has either responded with an improper objection that ignores the existence of a Protective Order in this proceeding, or has directly admitted that Applicant has no evidence to support Applicant’s

purported *bona fide* intent.

First of all, in response to Opposer's First Set of Requests for Admissions, specifically Request for Admission No. 6, Applicant has admitted that "Applicant has not yet commenced use of Applicant's Mark in United States commerce." Furthermore, in response to Opposer's First Set of Interrogatories, Applicant has admitted that no plans have been made or actions taken toward the goal of commencing use of the mark in commerce. For example, Applicant has provided the following responses:<sup>1</sup>

**Interrogatory No. 1:**

Identify all Persons responsible, or intended to be responsible, for inventing, creating, manufacturing, designing, and/or revising any of the Proposed Goods that bear or will bear Applicant's Mark.

**Response to Interrogatory No. 1:**

Objection. This request is not calculated to lead to the discovery of admissible evidence, is over broad and burdensome, and most, if not all such documents, would be considered trade secret or confidential information, which is unrelated to the issues of this proceeding.

**Interrogatory No. 4:**

Identify all market research relating to Applicant's Mark or any of the Proposed Goods intended to be marketed under Applicant's Mark.

**Response to Interrogatory No. 4:**

Objection. This request is not calculated to lead to the discovery of admissible evidence, is over broad and burdensome, and most, if not all such documents, would be considered trade secret or confidential information, which is unrelated to the issues of this

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<sup>1</sup> A copy of Opposer's First Set of Interrogatories to Applicant is attached hereto as **Exhibit A**. A copy of Applicant's Responses to Opposer's First Set of Interrogatories is attached hereto as **Exhibit B**.

proceeding. Subject to and without waiving said objections, Applicant responds as follows: Applicant has conducted no market research relating to Applicant's Mark or any of the Proposed Goods intended to be marketed under Applicant's Mark in the United States.

**Interrogatory No. 5:**

Identify all Persons with whom Applicant has entered, or intends to enter, into a license, contract or other agreement, including but not limited to coexistence agreements, regarding the intended use of Applicant's Mark in United States commerce.

**Response to Interrogatory No. 5:**

Objection. This request is not calculated to lead to the discovery of admissible evidence, is over broad and burdensome, and most, if not all such documents, would be considered trade secret or confidential information, which is unrelated to the issues of this proceeding.

**Interrogatory No. 6:**

Identify each person Applicant intends to call as a witness in this proceeding and the substance of the facts as to which he or she is expected to testify.

**Response to Interrogatory No. 6:**

Applicant presently does not intend to call any witness in this proceeding.

Through these responses, Applicant makes clear that he has not yet engaged in *any* planning or business activities of any kind related to Applicant's Mark, beyond his preparation of the Application. Not only does he outright admit that he has performed no market research, but his objections to Interrogatories 1, 4, and 5, are unfounded and incorrect, as these interrogatories

directly relate to Opposer's pleaded claim of lack of *bona fide* intent. This blanket, repeated objection is clearly just an attempt by Applicant to avoid having to admit that no evidence of any kind exists with which Applicant can respond to these Interrogatories. This is further made clear by the fact that, in Interrogatory 6, Applicant has admitted that he can list no witness who has any evidence relevant to this proceeding, including the issue of *bona fide* intent.

In addition to having no witnesses to present, Applicant has also admitted, outright, that he has no documentary evidence to demonstrate *bona fide* intent. In fact, Applicant again used the same improper objection mentioned above, in response to many of Opposer's document requests related to intent. For example, in response to Opposer's First Set of Document Requests, Applicant provided the following responses:<sup>2</sup>

**Document Request No. 1:**

All Documents requested to be identified or used as the basis for answering any of the Interrogatories provided in Opposer's First Set of Interrogatories to Applicant.

**Response to Document Request No. 1:**

Applicant does not have any documents that satisfy this request except for the document produced in response to Document Request No. 2.<sup>3</sup>

**Document Request No. 3:**

All Documents concerning agreements, proposals, or negotiations with any Person to license, produce, sell, offer for sale and/or distribute the Proposed Goods bearing Applicant's Mark in United States commerce.

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<sup>2</sup> A copy of Opposer's First Set of Document Requests to Applicant are attached hereto as Exhibit C. A copy of Applicant's Responses to Opposer's First Set of Document Requests are attached hereto as Exhibit D.

<sup>3</sup> Document Request No. 2 requested "All Documents that relate to the creation, selection, adoption, and /or development of Applicant's Mark." The one and only document produced by Applicant is a copy of a one page Certificate of Incorporation of Private Limited Company for GBR POLO LIMITED in England and Wales. Clearly, this document has no relevance whatsoever to the present proceeding, especially not to the issue of *bona fide* intent to use the mark in the United States.

**Response to Document Request No. 3:**

Objection. This request is not calculated to lead to the discovery of admissible evidence, is over broad and burdensome, and most, if not all such documents, would be considered trade secret or confidential information, which is unrelated to the issues of this proceeding.

**Document Request No. 4:**

All Documents concerning the manufacturing and/or planned manufacturing, including orders and/or samples, of the Proposed Goods that will bear Applicant's Mark.

**Response to Document Request No. 4:**

Objection. This request is not calculated to lead to the discovery of admissible evidence, is over broad and burdensome, and most, if not all such documents, would be considered trade secret or confidential information, which is unrelated to the issues of this proceeding.

**Document Request No. 7:**

Documents sufficient to identify each of the Proposed Goods intended to be sold in United States commerce by Applicant under Applicant's Mark.

**Response to Document Request No. 7:**

Applicant does not have any documents that satisfy this request.

**Document Request No. 8:**

Documents sufficient to identify the scope and operation of Applicant's business, including but not limited to Documents showing total revenues and sales for the past three years and Documents showing the distributors, manufacturers, and retailers with which Applicant does business or intends to do business.



**Response to Document Request No. 8:**

Objection. This request is not calculated to lead to the discovery of admissible evidence, is over broad and burdensome, and most, if not all such documents, would be considered trade secret or confidential information, which is unrelated to the issues of this proceeding.

**Document Request No. 11:**

All Documents evidencing Applicant's assertion in Applicant's Answer that Applicant has a *bona fide* intent to use Applicant's Mark in connection with the Proposed Goods in United States commerce, including but not limited to any contracts, purchase orders, invoices, or receipts.

**Response to Document Request No. 11:**

Applicant does not have any documents that satisfy this request.

**Document Request No. 12:**

All Documents, otherwise not responsive to the preceding requests, upon which Applicant will rely at a trial or a hearing in this matter.

**Response to Document Request No. 12:**

Applicant does not have any documents that satisfy this request.

Applicant has therefore clearly and unequivocally admitted, in response to Opposer's First Set of Document Requests and Opposer's First Set of Interrogatories, that Applicant has no documentary or testimonial evidence upon which it plans to rely in this case. This complete and utter lack of evidence has even specifically been admitted with respect to the issue of *bona fide* intent to use. There is no question of fact to be determined here, as Applicant has made it abundantly clear that he does not have any, nor does he intend to present any, evidence of *bona*

*fide* intent.

### ARGUMENT

A determination of whether an applicant has a *bona fide* intention to use a mark in commerce is an objective determination based on all of the circumstances. *See Boston Red Sox*, 88 U.S.P.Q.2d 1581; *see also Lane Ltd.*, 33 U.S.P.Q.2d at 1355. The Board has also held that the absence of any documentary evidence on the part of an applicant regarding such intent constitutes objective proof sufficient to prove that the applicant lacks a *bona fide* intention to use its mark in commerce, “unless other facts are presented which adequately explain or outweigh applicant’s failure to provide such documentary evidence.” *See Honda Motor Co. v. Winkelman*, 90 U.S.P.Q.2d 1660 (T.T.A.B. 2009) (citing *Commodore Electronics*, 26 U.S.P.Q.2d at 1507); *see also Boston Red Sox*, 88 U.S.P.Q.2d 1581.

Once “opposer satisfies its initial burden of showing the absence of documentary evidence regarding applicant’s *bona fide* intention to use the mark, the burden of production shifts to applicant to come forward with evidence adequately explaining or outweighing the failure to provide such documentary evidence.” *Cervezas Cuauhtemoc Moctezuma Sa De Cv v. Weaver*, 2014 WL 3976453, at \*3 (T.T.A.B. 2014) (citing *Commodore Elecs. Ltd. v. CBM Kabushiki Kaisha*, 26 U.S.P.Q.2d 1503, 1507 n.11 (T.T.A.B. 1993)). Applicant has made it clear that no such facts or evidence exist in this case. Furthermore, even though documentary evidence is not all that must be considered, and “the focus is on the entirety of the circumstances, as revealed by the evidence of record,” an objective review of Applicant’s discovery responses and the totality of the circumstances make it clear that no evidence of any kind exists to support *bona fide* intent. *Lane Ltd. v. Jackson Int’l Trading Co.*, 33 U.S.P.Q.2d 1351, 1357, 1994 WL 740491 (T.T.A.B. 1994)).

Furthermore, the lack of proof of the capacity or ability to produce or manufacture the goods at issue in an application also supports a finding of a lack of *bona fide* intent. *See, e.g., Cervezas Cuauhtemoc Moctezuma Sa De Cv v. Weaver*, 2014 WL 3976453, at \*4 (T.T.A.B. 2014); *Future Ads LLC v. Anderson*, 2014 WL 1649331, at \*7-\*8 (T.T.A.B. 2014); *Lincoln Nat'l Corp. v. Anderson*, 110 U.S.P.Q.2d 1271, 2014 WL 879506, at \*9 (T.T.A.B. 2014). Applicant has made no attempt, through any its discovery responses, to demonstrate any, even remote, ability to begin producing Applicant's Goods any time in the near future. The Board has further stated that an applicant's "mere statement of subjective intent" alone, will never be sufficient to establish a *bona fide* intent to use the mark in commerce. *Lane Ltd.*, 33 U.S.P.Q.2d at 1356; *Honda Motor*, 90 U.S.P.Q.2d 1660.

In fact, Applicant's answers to Opposer's First Set of Interrogatories to Applicant and Opposer's First Set of Document Requests to Applicant clearly establish that Applicant:

- (1) has engaged in no business activities with respect to Applicant's Mark;
- (2) has engaged in no business planning with respect to Applicant's Mark;
- (3) has yet to identify or conceive of products on which he intends to use Applicant's Mark;
- (4) has no documents whatsoever that would support his alleged *bona fide* intent to use Applicant's Mark in commerce; and
- (5) has no testimonial evidence whatsoever that would support his alleged *bona fide* intent to use Applicant's Mark in commerce.

Applicant's pleadings and discovery responses indicate that no facts or circumstances exist that would explain or outweigh his total lack of documents, or any other evidence, for that matter, to support a *bona fide* intent to use Applicant's Mark. Through his pleadings, discovery

responses, and production, Applicant has made it clear that, at the time that he filed the Application, and throughout the time of his discovery responses, he has taken absolutely no actions that would support his alleged *bona fide* intent to use the mark in commerce. In fact, “the entirety of the circumstances, as revealed by the evidence of record,” *Lane Ltd.*, 33 U.S.P.Q.2d at 1357, including Applicant’s admissions in discovery, clearly demonstrate that Applicant cannot possibly introduce any facts or evidence that could adequately support a *bona fide* intent to use.

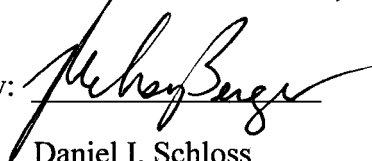
### **CONCLUSION**

As shown above, Applicant has failed to produce any evidence of any kind to corroborate his alleged *bona fide* intent to use Applicant’s Mark on or in connection with Applicant’s Goods at the time that he filed the Application. In fact, he has affirmatively stated that he does not have any evidence, nor have even the most basic plans been made, nor actions taken, to use Applicant’s Mark in commerce. As such, the totality of the circumstances make it clear that no genuine issue of material fact exists for the Board to decide. Applicant clearly lacked any *bona fide* intent to use Applicant’s Mark when Applicant filed his Application. Accordingly, Opposer respectfully requests that the Board grant Opposer’s Motion for Summary Judgment and sustain its Opposition to Application Serial No. 85/755,945.

Dated: New York, NY  
December 9, 2014

**GREENBERG TRAURIG, LLP**

By:

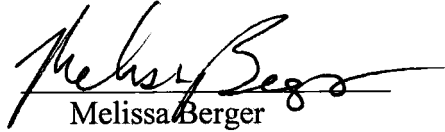


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Melissa B. Berger  
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New York, NY 10166  
Telephone: (212) 801-9200  
Facsimile: (212) 801-6400  
*Attorneys for Opposer*

**CERTIFICATE OF SERVICE**

I hereby certify that on December 9, 2014, the foregoing Motion for Summary Judgment was served upon Applicant by delivering same to Applicant's Attorney of Record via E-mail, pursuant to the agreement of the parties, at:

GEORGE G WANG  
BEI & OCEAN  
georgewang@bei-ocean.com

  
Melissa Berger

# **EXHIBIT A**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

**In re:** U.S. Application Serial No. 85/755,945

**Mark:** GBR POLO

**Published:** April 16, 2013

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PRL USA HOLDINGS, INC.,

Opposition No. 91212004

Opposer,

-against-

XINGTANG REN,

Applicant.

-----X

**OPPOSER'S FIRST SET OF INTERROGATORIES TO APPLICANT**

Opposer PRL USA Holdings, Inc. ("Opposer") hereby requests, pursuant to Rule 33 of the Federal Rules of Civil Procedure and Rule 2.120 of the U.S. Trademark Rules of Practice, that Applicant Xingtang Ren (hereinafter "Applicant") respond in writing to this First Set of Interrogatories within the time required by the Trademark Rules of Practice.

Dated: August 3, 2014

GREENBERG TRAURIG, LLP

By: /Daniel I. Schloss/

Daniel I. Schloss  
Melissa Berger  
200 Park Avenue, 34<sup>th</sup> Floor  
New York, NY 10166  
Telephone: (212) 801-2256  
*Attorneys for Opposer*

## **INSTRUCTIONS**

1. These interrogatories are addressed to Applicant and its (i) present or former directors, officers, employees, agents, representatives, accountants, investigators, consultants, attorneys, and predecessors or successors in interest and any parent, subsidiary or affiliated entities that were in existence during the applicable period of time covered by these interrogatories; (ii) any other person or entity acting on Applicant's behalf or on whose behalf Applicant acted; and (iii) any other person or entity otherwise subject to Applicant's control or which controls Applicant, or with which Applicant is under common control.
  
2. Applicant's answers must include all information concerning the matters inquired about available to Applicant's attorneys, and to investigators or other agents for Applicant and its attorneys.
  
3. If Applicant cannot answer any interrogatory fully and completely after exercising due diligence to make inquiry and secure the information necessary to do so, please so state and answer each such interrogatory to the fullest extent Applicant deems possible, specify the portion of each interrogatory that Applicant claims to be unable to answer fully and completely, state the facts upon which Applicant relies to support its contention that it is unable to answer the interrogatory fully and completely, and state what knowledge, information or belief Applicant has concerning the unanswered portion of each such interrogatory.
  
4. In the event that the answer to all or any part of any interrogatory is not presently known or available, Applicant shall include a statement to that effect, furnish the information known or available, and respond to the entire interrogatory by supplemental answer in writing and under oath within ten days from the time the entire answer becomes known or available. These Interrogatories seek responses as of the date hereof but shall be *deemed to be continuing* so that any additional information relating in any way to these interrogatories which Applicant acquires or which becomes known to Applicant up to and including the time of trial shall be furnished to Applicant promptly after such information is acquired or becomes known as required by Rule 26(e) of the Federal Rules of Civil Procedure.



## **DEFINITIONS**

1. The terms “Opposer” or “PRL” mean PRL USA Holdings, Inc., and shall include any officers, directors, corporate parents, subsidiaries, affiliates, predecessors or successors of PRL USA Holdings, Inc., as well as any employees, partners, agents, sales representatives, attorneys and all other persons acting or purporting to act on behalf of said entities, inclusively.
2. The term “Opposer’s Marks” refers to the marks identified in the Notice of Opposition in Proceeding 91212004, which are used by Opposer in various forms.
3. The terms “You,” “Your,” or “Applicant” mean Xingtang Ren, as well as any employees, partners, agents, sales representatives, attorneys and all other Persons acting or purporting to act on behalf of Xingtang Ren, inclusively.
4. The terms “Applicant’s Proposed Goods” or “Proposed Goods” refer to all goods identified in Applicant’s Trademark Application Serial No. 85/755,945.
5. The term “Applicant’s Mark” refers to the mark identified in U.S. Trademark Application Serial No. 85/755,945 for GBR POLO
6. The term “Person” includes any natural person, firm, association, organization, partnership, business, trust, governmental entity, joint venture, corporation or public entity. Additionally, the singular and plural forms are used interchangeably, as are the masculine and feminine forms. Finally, the terms “and” and “or” are meant as both conjunctive and disjunctive.
7. The term “Communications” means any oral or written transmittal, correspondence, and/or receipt of words or information, whether such was by chance, pre-arranged, formal or informal, and specifically includes but is not limited to conversations in person, telephone conversations, telegrams, telexes, facsimiles, letters, emails, reports or memoranda, formal statements, newspaper stories, notes of telephone conversations, notes of meetings, data compilations, and electronically stored data. References to Communications with business entities shall be deemed to include Communication with all officers, directors, employees, agents, attorneys or other representatives of such entities.

8. The term “Document” shall mean and include any type of written, recorded, electronic, graphic or photographic matter of any kind or character, however produced or reproduced. The term thus includes, without limiting the generality of the foregoing, all photographs, sketches, drawings, videotapes, audiotapes, letters, telegrams, telexes, facsimiles, electronic mail, correspondence, brochures, manuals, press releases, transcripts of interviews, transcripts of speeches, product guides, contracts, consulting agreements, other agreements, business plans, deeds, drafts, work papers, plans, blueprints, specifications, comparisons, surveys, data sheets, analyses, calculations, files (and their contents), notes to the files, reports, publications, mechanical and electronic sound recordings or transcripts thereof, calendar or diary entries, memoranda of telephone or personal conversations or of meetings or conferences, maps, studies, reports, charts, interoffice communications, minutes of meetings, articles, announcements, ledgers, vouchers, checks, receipts and invoices, tax records and forms, court pleadings and papers, discovery requests and responses including originals and copies of any of the foregoing, and any material underlying, supporting or used in preparing any Document.

9. A Document refers to a subject if, for example, it constitutes, comprises, describes, sets forth, reflects, analyzes, refers to, evidences, comments upon, mentions, is connect to, discusses, contains data relating to, or pertains to the subject.

10. The phrase “Identify,” or any variation of the word identify, and shall mean to specify the full name, present position and business affiliation of such Person, and last known physical address (including apartment number, if applicable), email address, telephone number and facsimile number for such Person. In the case of a company, state, name, place of incorporation, address and principal place of business and “identity” of officers or other persons having knowledge of the matter with respect to which the company is named. In the case of “document,” “identity” of the persons originating and preparing it and the sender, its general type (e.g., letter, memo, report, invoice, etc.), title, identifying number and the general nature of its subject matter, the “identity” of the addressees and distributees, if any, its dates of preparation, its dates and manner of transmission, distribution and publication, if any, location of each copy (including title, index number and location of the file in which it is kept or from which it was removed) and “identity” of the present custodian or person responsible for its filing or other disposition, “identity” of persons who can authenticate or “identify” it, and, if privilege against

production is claimed, the specific basis therefore and a complete specification and description of every fact upon which the claim or privilege is based.

11. “And” and “or” shall be construed conjunctively or disjunctively, whichever makes the requests more inclusive. The term “all” shall mean “any and all” and the term “any” shall mean “any and all.” The singular of any word or phrase shall include the plural of such word or phrase.

## **INTERROGATORIES**

### **Interrogatory No. 1:**

Identify all Persons responsible, or intended to be responsible, for inventing, creating, manufacturing, designing, and/or revising any of the Proposed Goods that bear or will bear Applicant’s Mark.

### **Interrogatory No. 2:**

Describe in detail the process through which Applicant’s Mark was designed and developed, including the names of all Persons involved.

### **Interrogatory No. 3:**

Identify any other litigation or legal disputes regarding use of Applicant’s Mark by stating the name and case number of the litigation or, if a legal dispute has not matured into litigation, by stating the name and address of the Person with whom Applicant has the dispute.

### **Interrogatory No. 4:**

Identify all market research relating to Applicant’s Mark or any of the Proposed Goods intended to be marketed under Applicant’s Mark.

### **Interrogatory No. 5:**

Identify all Persons with whom Applicant has entered, or intends to enter, into a license, contract or other agreement, including but not limited to coexistence agreements, regarding the intended use of Applicant’s Mark in United States commerce.

### **Interrogatory No. 6:**

Identify each person Applicant intends to call as a witness in this proceeding and the substance of the facts as to which he or she is expected to testify.

**Interrogatory No. 7:**

Identify all Persons who furnished information regarding the answers to the foregoing Interrogatories.

Dated: August 3 2014

GREENBERG TRAURIG, LLP

By: /Daniel I. Schloss/

Daniel I. Schloss  
Melissa Berger  
200 Park Avenue, 34<sup>th</sup> Floor  
New York, NY 10166  
Telephone: (212) 801-2256  
Facsimile: (212) 801-6400  
*Attorneys for Opposer*

**CERTIFICATE OF SERVICE**

I hereby certify that on August 3, 2014, the foregoing Opposer's First Set of Interrogatories to Applicant was served upon Applicant via email (per the agreement of the parties) at: georgewang@bei-ocean.com

/Daniel I. Schloss/

# **EXHIBIT B**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the Matter of:

Application Serial No. 85/755,945

Published in the Official Gazette

April 16, 2013

PRL USA HOLDINGS, INC.,

Opposer,

v.

XINGTANG REN,

Applicant.

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Opposition No. 91212004

**APPLICANT'S RESPONSE TO OPPOSER'S FIRST SET OF  
INTERROGATORIES**

Applicant XINGTANG REN makes the following responses to OPPOSER'S FIRST SET OF INTERROGATORIES, as follows:

**RESPONSE TO INTERROGATORY NO. 1:**

Objection. This request is not calculated to lead to the discovery of admissible evidence, is over broad and burdensome, and most, if not all such documents, would be considered trade secret or confidential information, which is unrelated to the issues of this proceeding.

**RESPONSE TO INTERROGATORY NO. 2:**

Applicant adopted the mark based on the registered trade name of a company owned by Applicant in the United Kingdom. The decision of such adoption was made by Mr. Xingtang Ren himself, involving no special design and development process.

**RESPONSE TO INTERROGATORY NO. 3:**

Applicant has engaged no litigation or legal disputes regarding Applicant's Mark in the United States.

RESPONSE TO INTERROGATORY NO. 4:

Objection. This request is not calculated to lead to the discovery of admissible evidence, is over broad and burdensome, and most, if not all such documents, would be considered trade secret or confidential information, which is unrelated to the issues of this proceeding. Subject to and without waiving said objections, Applicant responds as follows: Applicant has conducted no market research relating to Applicant's Mark or any of the Proposed Goods intended to be marketed under Applicant's Mark in the United States.

RESPONSE TO INTERROGATORY NO. 5:

Objection. This request is not calculated to lead to the discovery of admissible evidence, is over broad and burdensome, and most, if not all such documents, would be considered trade secret or confidential information, which is unrelated to the issues of this proceeding.

RESPONSE TO INTERROGATORY NO. 6:

Applicant presently does not intend to call any witness in this proceeding.

RESPONSE TO INTERROGATORY NO. 7:

Mr. Xingtang Ren.

Respectfully submitted

Dated: September 5, 2014

/George G. Wang/

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George G. Wang  
Counsel for Applicant  
BEI & OCEAN  
Suite 17A, Tower 7, Fanling Town Centre,  
Fanling, Hong Kong  
Tel: (852) 3500 1037; Fax: (852) 3011 5761

**CERTIFICATE OF SERVICE**

I hereby certify that on September 5, 2014, a pdf copy of the foregoing **APPLICANT'S RESPONSE TO OPPOSER'S FIRST SET OF INTERROGATORIES** was served upon Opposer's Counsel via email at: schlossd@gtlaw.com

/George G. Wang/



# **EXHIBIT C**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

**In re:** U.S. Application Serial No. 85/755,945

**Mark:** GBR POLO

**Published:** April 16, 2013

-----X

PRL USA HOLDINGS, INC.,

Opposition No. 91212004

Opposer,

-against-

XINGTANG REN,

Applicant.

-----X

**OPPOSER'S FIRST SET OF DOCUMENT REQUESTS TO APPLICANT**

PLEASE TAKE NOTICE THAT, pursuant to Rules 26 and 34 of the Federal Rules of Civil Procedure and Rule 2.120 of the Trademark Rules of Practice, Opposer PRL USA Holdings, Inc. ("PRL" or "Opposer"), through and by its undersigned attorneys, hereby requests that Applicant Xingtang Ren (hereinafter "Applicant") produce copies of all Documents as defined and set forth herein within the time required by the Trademark Rules of Practice.

Dated: August 3, 2014

GREENBERG TRAURIG, LLP

By: /Daniel I. Schloss/

Daniel I. Schloss  
Melissa Berger  
200 Park Avenue, 34<sup>th</sup> Floor  
New York, NY 10166  
Telephone: (212) 801-2256  
*Attorneys for Opposer*

## **DEFINITIONS AND INSTRUCTIONS**

1. The terms “Opposer” or “PRL” mean PRL USA Holdings, Inc., and shall include any officers, directors, corporate parents, subsidiaries, affiliates, predecessors or successors of PRL USA Holdings, Inc., as well as any employees, partners, agents, sales representatives, attorneys and all other Persons acting or purporting to act on behalf of said entities, inclusively.

2. The term “Opposer’s Marks” refers to the marks identified in Notice of Opposition in Proceeding 91212004, which are used by Opposer in various forms.

3. The terms “You,” “Your,” or “Applicant” mean Xingtang Ren, as well as any employees, partners, agents, sales representatives, attorneys and all other Persons acting or purporting to act on behalf of Xingtang Ren, inclusively.

4. The term “Person” includes any natural person, firm, association, organization, partnership, business, trust, governmental entity, joint venture, corporation or public entity. Additionally, the singular and plural forms are used interchangeably, as are the masculine and feminine forms.

5. The term “Communications” means any oral or written transmittal, correspondence, and/or receipt of words or information, whether such was by chance, pre-arranged, formal or informal, and specifically includes but is not limited to conversations in Person, telephone conversations, telegrams, telexes, facsimiles, letters, emails, reports or memoranda, formal statements, newspaper stories, notes of telephone conversations, notes of meetings, data compilations, and electronically stored data. References to Communications with business entities shall be deemed to include Communication with all officers, directors, employees, agents, attorneys or other representatives of such entities.

6. The term “Document” shall mean and include any type of written, recorded, electronic, graphic or photographic matter of any kind or character, however produced or reproduced. The term thus includes, without limiting the generality of the foregoing, all photographs, sketches, drawings, videotapes, audiotapes, letters, telegrams, telexes, facsimiles, electronic mail, correspondence, brochures, manuals, press releases, transcripts of interviews, transcripts of speeches, product guides, contracts, consulting agreements, other agreements,

business plans, deeds, drafts, work papers, plans, blueprints, specifications, comparisons, surveys, data sheets, analyses, calculations, files (and their contents), notes to the files, reports, publications, mechanical and electronic sound recordings or transcripts thereof, calendar or diary entries, memoranda of telephone or personal conversations or of meetings or conferences, maps, studies, reports, charts, interoffice communications, minutes of meetings, articles, announcements, ledgers, vouchers, checks, receipts and invoices, tax records and forms, court pleadings and papers, discovery requests and responses including originals and copies of any of the foregoing, and any material underlying, supporting or used in preparing any Document.

7. A Document refers to a subject if, for example, it constitutes, comprises, describes, sets forth, reflects, analyzes, refers to, evidences, comments upon, mentions, is connect to, discusses, contains data relating to, or pertains to the subject.

8. The phrase “Identify,” or any variation of the word identify, and shall mean to specify the full name, present position and business affiliation of such Person, and last known physical address (including apartment number, if applicable), email address, telephone number and facsimile number for such Person. In the case of a company, state, name, place of incorporation, address and principal place of business and “identity” of officers or other Persons having knowledge of the matter with respect to which the company is named. In the case of “document,” “identity” of the Persons originating and preparing it and the sender, its general type (e.g., letter, memo, report, invoice, etc.), title, identifying number and the general nature of its subject matter, the “identity” of the addressees and distributees, if any, its dates of preparation, its dates and manner of transmission, distribution and publication, if any, location of each copy (including title, index number and location of the file in which it is kept or from which it was removed) and “identity” of the present custodian or Person responsible for its filing or other disposition, “identity” of Persons who can authenticate or “identify” it, and, if privilege against production is claimed, the specific basis therefore and a complete specification and description of every fact upon which the claim or privilege is based.

9. “And” and “or” shall be construed conjunctively or disjunctively, whichever makes the requests more inclusive. The term “all” shall mean “any and all” and the term “any”

shall mean “any and all.” The singular of any word or phrase shall include the plural of such word or phrase.

10. The terms “Applicant’s Proposed Goods” or “Proposed Goods” refer to all goods identified in Applicant’s Trademark Application Serial No. 85/755,945.

11. The term “Applicant’s Mark” refers to the mark identified in U.S. Trademark Application Serial No. 85/755,945 for GBR POLO.

12. With respect to each Document believed to exist by the Applicant, but which Document cannot be located, Applicant shall, to the extent known, provide the following information:

- a) The date appearing on each such document, and if it has no date, the answer shall so state and shall give the appropriate dates, when such document was prepared;
- b) The number of pages contained in each such document;
- c) The general nature and substance of each such document including the particular, express, or implied provision of each such document;
- d) The identifying or description code number, file number, title or label of each such document;
- e) The name(s) of the Person(s) who prepared or in any way assisted in the preparation of each such document; and
- f) The name of the Person having present or last known possession, custody, and control of such document, and of each and all known copies thereof.
- g) The above information shall be given in sufficient detail to enable a party or Person to whom a Subpoena or Request for Production of Documents is later directed to identify fully the document(s) sought to be produced or subpoenaed, and to enable counsel for Opposer to determine that such document(s), when produced, is in fact that document(s) so described.

14. If production of any document is withheld on the basis of a claim of privilege, identify each withheld document separately by providing the following information (see *Upjohn v. United States*, 449 U.S. 383 (1981)):

- a) The above the identity and position of the Person or Persons supplying the information;
- b) the place, date and manner of recording, or otherwise providing the instrument;
- c) the names of the Person or Persons other than stenographic or clerical

- d) assistance participating in the preparation of the documents;  
the name and position of each Person to whom the content of the document is addressed or communicated to by copying, exhibiting, reading, or substantial summarization;
- e) a general description of the subject matter of the document;
- f) the type of privilege claimed (attorney/client or work product);
- g) the basis for the claim of privilege;
- h) all facts showing that the claimed privilege has not been waived;
- i) the status of the entity claiming the privilege; and
- j) the portions of the document as to which the privilege is claimed (i.e., one sentence, one paragraph, the entire document, etc.).

15. In addition to providing supplementary and amended production as required by Rule 26(e) of the Federal Rules of Civil Procedure, Opposer requests that if Applicant subsequently obtains further or different document or items responsive to this request, it produce those documents or items promptly. If Applicant for any reason is not agreeable to providing such supplementary and amended production, Opposer requests Applicant so advise Opposer's attorneys at the time it serves his original response to this request.

**Document Request No. 1:**

All Documents requested to be identified or used as the basis for answering any of the Interrogatories provided in Opposer's First Set of Interrogatories to Applicant.

**Document Request No. 2:**

All Documents that relate to the creation, selection, adoption, and/or development of Applicant's Mark.

**Document Request No. 3:**

All Documents concerning agreements, proposals, or negotiations with any Person to license, produce, sell, offer for sale and/or distribute the Proposed Goods bearing Applicant's Mark in United States commerce.

**Document Request No. 4:**

All Documents concerning the manufacturing and/or planned manufacturing, including orders and/or samples, of the Proposed Goods that will bear Applicant's Mark.

**Document Request No. 5:**

All Documents concerning assertions, claims, or protests by third parties that Applicant's Mark, or any other of Applicant's designs, trademarks, or products, constitute(d) an infringement, or

possible or potential infringement.

**Document Request No. 6:**

All Documents concerning: (a) searches performed with respect to all trademarks considered for the Proposed Goods bearing Applicant's Mark, and (b) opinions of counsel rendered regarding these marks.

**Document Request No. 7:**

Documents sufficient to identify each of the Proposed Goods intended to be sold in United States commerce by Applicant under Applicant's Mark.

**Document Request No. 8:**

Documents sufficient to identify the scope and operation of Applicant's business, including but not limited to Documents showing total revenues and sales for the past three years and Documents showing the distributors, manufacturers, and retailers with which Applicant does business or intends to do business.

**Document Request No. 9:**

All Documents mentioning or related to any or all of Opposer's Marks.

**Document Request No. 10:**

All Documents mentioning or related to Opposer.

**Document Request No. 11:**

All Documents evidencing Applicant's assertion in Applicant's Answer that Applicant has a *bona fide* intent to use Applicant's Mark in connection with the Proposed Goods in United States commerce, including but not limited to any contracts, purchase orders, invoices, or receipts.

**Document Request No. 12:**

All Documents, otherwise not responsive to the preceding requests, upon which Applicant will

rely at a trial or a hearing in this matter.

New York, NY

Dated: August 3, 2014

**GREENBERG TRAURIG, LLP**

By: /Daniel I. Schloss/

Daniel I. Schloss

Melissa Berger

200 Park Avenue, 34<sup>th</sup> Floor

New York, NY 10166

*Attorneys for Opposer*

**CERTIFICATE OF SERVICE**

I hereby certify that on August 3, 2014, the foregoing Opposer's First Set of Document Requests to Applicant was served upon Applicant by delivering same to Applicant's Counsel, via email (per the agreement of the parties) at: georgewang@bei-ocean.com

/Daniel I. Schloss/



# **EXHIBIT D**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the Matter of:

Application Serial No. 85/755,945

Published in the Official Gazette

April 16, 2013

PRL USA HOLDINGS, INC.,

Opposer,

v.

XINGTANG REN,

Applicant.

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Opposition No. 91212004

**APPLICANT'S RESPONSE TO OPPOSER'S FIRST SET OF DOCUMENT  
REQUESTS**

Applicant XINGTANG REN makes the following responses to OPPOSER'S  
FIRST SET OF DOCUMENT REQUESTS, as follows:

**RESPONSE TO DOCUMENT REQUEST NO. 1:**

Applicant does not have any documents that satisfy this request except for the  
document produced in response to Document Request No. 2.

**RESPONSE TO DOCUMENT REQUEST NO. 2:**

One document produced herewith in Exhibit D-1-1.

**RESPONSE TO DOCUMENT REQUEST NO. 3:**

Objection. This request is not calculated to lead to the discovery of admissible  
evidence, is over broad and burdensome, and most, if not all such documents,  
would be considered trade secret or confidential information, which is unrelated  
to the issues of this proceeding.

**RESPONSE TO DOCUMENT REQUEST NO. 4:**

Objection. This request is not calculated to lead to the discovery of admissible

evidence, is over broad and burdensome, and most, if not all such documents, would be considered trade secret or confidential information, which is unrelated to the issues of this proceeding.

RESPONSE TO DOCUMENT REQUEST NO. 5:

Applicant does not have any documents that satisfy this request.

RESPONSE TO DOCUMENT REQUEST NO. 6:

Applicant does not have any documents that satisfy this request.

RESPONSE TO DOCUMENT REQUEST NO. 7:

Applicant does not have any documents that satisfy this request.

RESPONSE TO DOCUMENT REQUEST NO. 8:

Objection. This request is not calculated to lead to the discovery of admissible evidence, is over broad and burdensome, and most, if not all such documents, would be considered trade secret or confidential information, which is unrelated to the issues of this proceeding.

RESPONSE TO DOCUMENT REQUEST NO. 9:

Objection. The request is over broad and burdensome, and most, if not all such documents, would be information subject to the attorney-client privilege and/or attorney work product.

RESPONSE TO DOCUMENT REQUEST NO. 10:

Objection. The request is over broad and burdensome, and most, if not all such documents, would be information subject to the attorney-client privilege and/or attorney work product.

RESPONSE TO DOCUMENT REQUEST NO. 11:

Applicant does not have any documents that satisfy this request.

RESPONSE TO DOCUMENT REQUEST NO. 12:

Applicant does not have any documents that satisfy this request.

Respectfully submitted

Dated: September 5, 2014

/George G. Wang/

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George G. Wang  
Counsel for Applicant  
BEI & OCEAN  
Suite 17A, Tower 7, Fanling Town Centre,  
Fanling, Hong Kong  
Tel: (852) 3500 1037; Fax: (852) 3011 5761

**CERTIFICATE OF SERVICE**

I hereby certify that on September 5, 2014, a pdf copy of the foregoing  
**APPLICANT'S RESPONSE TO OPPOSER'S FIRST SET OF DOCUMENT REQUESTS**  
was served upon Opposer's Counsel via email at: schlossd@gtlaw.com

/George G. Wang/





CERTIFICATE OF INCORPORATION  
OF A  
PRIVATE LIMITED COMPANY

Company Number. 8253633

The Registrar of Companies for England and Wales, hereby certifies that

GBR POLO LIMITED

is this day incorporated under the Companies Act 2006 as a private company, that the company is limited by shares, and the situation of its registered office is in England and Wales.

Given at Companies House, Cardiff, on 15th October 2012.



THE OFFICIAL SEAL OF THE  
REGISTRAR OF COMPANIES

英國公司所在地址及秘書服務電話、傳真如下：

中文地址：英國庞特普里德市潘特格莱温路9号 邮编：CF37 2RR

英文地址：9 PANTYGRAIGWEN ROAD PONTYPRIDD MID GLAMORGAN  
UNITED KINGDOM CF37 2RR

电话 Tel: +44 845 257 6082

传真 Fax: +44 844 504 5173

注：註冊地址非營業地址並不用來接待客戶，用來接收政府、銀行公務信函，

包裹及私人信件拒收。秘書非私人秘書，接聽客人電話及收轉業務傳真。

英國公司查冊網站：<http://wck2.companieshouse.gov.uk/>

貴司的年審時間是：2013年10月15日請在此日期前辦理年審